

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

EUROPEAN PERFORMANCE
ENGINEERING, INC.,

Plaintiff,

V.

JOHN DOE, et al.,

Defendants.

1:16-cv-982 (LMB/MSN)

ORDER

Before the Court is a Report and Recommendation (“Report”) issued by a magistrate judge on September 9, 2016 [Dkt. 21], which recommended that default judgment be entered against defendant EPE.com (“defendant domain name”) and that the claims against defendant John Doe be dismissed without prejudice, as plaintiff has requested. See Report at 6. The parties were advised that any objections to the Report had to be filed within 14 days and that failure to file a timely objection waived the right to appeal the substance of the Report and any judgment based upon the Report. As of September 29, 2016, no party has filed an objection. The Court has reviewed the Report, plaintiff’s motion for default judgment, and the case file and adopts the Report.

The magistrate judge correctly determined that the Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) because it involves a federal question arising under the Anti-cybersquatting and Consumer Protection Act (ACPA). The magistrate judge also correctly concluded that this Court has in rem jurisdiction over defendant domain name under 15 U.S.C. § 1125(d)(2)(A) because plaintiff alleges trademark infringement and the registry of defendant domain name, Verisign, is in this district. As this Court found in the Order

entered on August 29, 2016, [Dkt. 15], service was properly effected on defendant domain name under 15 U.S.C. § 1125(d)(2)(A)(ii).

The Court finds that the magistrate judge correctly determined that plaintiff has pleaded the requirements for obtaining injunctive relief under the ACPA. Specifically, plaintiff has adequately pleaded that it possesses common law trademark rights in the domain name EPE.com by having registered it and used it in business. Report at 4–5. Moreover, the magistrate judge rightly found that the current registrant used the same domain name in violation of the ACPA. Report at 5. Accordingly, the magistrate judge correctly determined that plaintiff is entitled to relief under the ACPA with respect to his in rem claim.

Accordingly, the Report is ADOPTED and plaintiff's Motion for Default Judgment as to Defendant EPE.com [Dkt. 17] is GRANTED, and it is hereby

ORDERED that default judgment be and is entered against defendant EPE.com; and it is further


ORDERED that the Registry of Record promptly change the registrar for the domain name EPE.com and place it in the account as directed by plaintiff's counsel; and it is further

ORDERED that plaintiff's remaining claims be and are dismissed without prejudice.

The Clerk is directed to enter judgment in this matter pursuant to Fed. R. Civ. P. 55 and forward copies of this Order to counsel of record and the defendant.

Entered this 29th day of September, 2016.

Alexandria, Virginia



/s/ Leonie M. Brinkema
United States District Judge